

**Poindexter Slough Upland Game Bird Habitat Enhancement Project**  
**Environmental Assessment Decision Notice**  
**Montana Fish, Wildlife & Parks**  
**Region 3, Bozeman**  
**August 23, 2011**

**Proposed Action**

Montana Fish, Wildlife & Parks (FWP), in cooperation with the Beaverhead Chapter of Pheasants Forever (BCPF), is systematically modifying upland habitat for the benefit of upland birds, waterfowl and other wildlife. Six specific projects, listed below, were proposed and approved through an EA process in August 2010 within the 340 acre portion of Poindexter Slough Fishing Access Site (FAS) north and west of Interstate 15:

1. The construction of up to 0.8 miles of boundary fence.
2. The replacement of a small bridge to a tributary of Poindexter Slough.
3. The conversion of approximately 150 acres of old hayfields to dense nesting cover.
4. The interspersing of food plots throughout the project.
5. The planting of a shelterbelt complex.
6. Restrictions on dogs off leash within the habitat enhancement project.

A need to manage the existing plant material in the acreage to be converted to dense nesting cover and food plots was subsequently identified. FWP proposes to use controlled livestock grazing and/or haying as a means to manage the standing crops of existing grasslands and nursery crops that will be used as intermediate plantings on the acreage proposed for dense nesting cover or food plots. The project would utilize domestic cattle in the late winter or early spring to remove the standing crop. Livestock would be fenced off Poindexter Slough by a one-wire electric fence. The fence wire would be laid down on the ground or removed when not in use. Haying opportunity is constrained by the existing weight restricted bridge on the administrative access to Poindexter, but is an option the department and the project partners analyzed within the proposed action.

FWP proposed two alternatives to the proposed action:

**Alternative A:** Prescribed burning. This alternative would use prescribed fire as the primary tool to manage the standing crop of grass or nursery crop. FWP and BCPF view fire as a valuable but somewhat limited management tool. Neither FWP nor BCPF has the expertise or equipment to conduct prescribed fire operations and would have to rely on Montana DNRC, the local fire department, or private contractors to implement. Prescribed burning is also manpower-intensive, has liability concerns associated with wildfire, could create a hazard on adjacent Interstate 15, and could cause local air pollution concerns in and around Dillon. Prescribed fire can remain a possible tool, but given the manpower costs, limitations on where it can be applied, and the potential liabilities, it is not the appropriate tool for all of the project acreage.

**Alternative B:** No Action (Status quo). The projects contemplated in the original EA could be implemented using mowing on a fee-for-service basis as a means to manage biomass. This

alternative is not cost effective on a large scale, which is a central requirement of the FWP Upland Game Bird Enhancement Program.

### **Montana Environmental Policy Act**

FWP is required by the Montana Environmental Policy Act (MEPA) to assess significant potential impacts of a proposed action to the human and physical environments. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on July 8, 2011.

Public comments on the proposed action were taken for 30 days (through August 11, 2011). The EA was mailed to 25 individuals and groups, and legal notices were printed in the *Montana Standard* and the *Dillon Tribune*. The EA was also posted on the FWP webpage.

### **Summary of Public Comment**

Fifteen individuals or organizations provided 76 comments during the 30-day review period.

**Comment 1-4:** An individual thanked FWP for targeting the smooth brome communities for removal and suggested using native basin wildrye and slender wheatgrass instead of non-native intermediate and tall wheatgrass. The comment questioned the need to disturb the dense nesting cover with grazing. The comment inquired about a forb component to the dense nesting cover and suggested spraying the smooth brome following the grazing treatment and prior to seeding.

**Response:** FWP and BCPF consulted on site with the USDA Natural Resource Conservation Service (NRCS) regarding the most effective grass mixtures. The NRCS review indicated that basin wildrye is likely not well suited to the site based on the limited distribution through Poindexter. Where it occurs in any significant amount on the project, FWP will retain it as a valuable native plant. Slender wheatgrass will be part of any dense nesting cover mix because it is a rapid establishing plant. The downside, however, is that it is short-lived and must be used in conjunction with other compatible, longer-lived species. The dense nesting cover would not be grazed by livestock unless a weed control issue develops. Livestock would be used as a tool to reduce the smooth brome biomass and the nursery crop biomass. NRCS recommends alsike clover as the best suitable forb. FWP and BCPF treated approximately 60 acres with prescribed fire in May and chemically fallowed approximately 50 acres in June 2011. These acres were subsequently planted with a barley and corn mixture as a nursery crop.

**Comment 5:** Two members of the Beaverhead Chapter of Pheasants Forever stated their support for the project.

**Response:** Comment noted.

**Comment 6-9:** A neighboring landowner commented in support of the proposed grazing and farming. The comment also stated that all boundary fences to Poindexter FAS should be replaced or rebuilt with regular field fence. The neighbor felt that some irrigation should be done in the planted areas or it will turn to weeds. New signage should be put on all boundary fences.

**Response:** The comment in support is noted. Approximately 1.2 miles of boundary fence in 2 separate sections are currently identified for replacement as soon as the fall of 2011. FWP agrees that the existing jackleg fences are not a wise use of capital, and proposes to replace them with regular field fence where at all possible. Boundary fences are maintained and administered by the FWP Fisheries Bureau. The FWP Wildlife Bureau and BCPF contributed \$3,500 in upland game bird and banquet funds to facilitate these projects. The Poindexter irrigation system is not available to this project outside of a small pump based, gravity system that FWP and BCPF will design for the shelterbelt in 2013 and spot irrigation on areas that were disturbed during construction activities in the spring of 2011. The Fisheries Bureau is addressing Poindexter Slough fish habitat in a separate project and needs all available water to maintain flows. The FWP Wildlife Bureau and BCPF are concerned about weeds and have budgeted \$3000 to control weeds within planted areas, including ongoing Canadian thistle control. Both parties are active participants in the Beaverhead County Community Spray Day. FWP acknowledges the signs on Poindexter FAS boundaries are in need of replacement.

**Comment 10-11:** Beaverhead County Planner Rick Hartz commented in support of the proposed action and as an individual sportsmen looking forward to expanded hunting opportunity the project will offer.

**Response:** Comment noted.

**Comment 12-16:** The Beaverhead Outdoors Association commented in support of the project and indicated that Poindexter Slough is in desperate need of management. The comment stated the project is a welcome alternative to doing nothing and that developing a partnership with BCPF is a win-win for upland birds. The comment stated that the BOA supports the use of livestock grazing as a management tool.

**Response:** Comment noted.

**Comment 17-21-:** Beaverhead County Fire Warden Scott Marsh provided comment in support of the proposed action. The comment indicated that haying and fire are somewhat viable but definitely not preferred. Mr. Marsh participated in 2 prescribed burns on Poindexter and indicated that burning on this site is labor intensive and poses a safety concern for the travelling public on adjacent Interstate 15. The comment indicates that cattle grazing would help reduce and manage the fuels to reduce the threat of wildland fire. Mr. Marsh commented as a private individual in support of the project and also noted the lack of deer use on Poindexter and attributed this to the overgrown and decadent grass on the area.

**Response:** FWP recognizes and concurs in the limitations expressed regarding both prescribed fire and haying as management tools on Poindexter FAS. The portions of the project that have been implemented to date suggest a very positive response by white-tailed deer.

**Comment 21-23:** The Beaverhead County Commissioners commented in support of the proposed action. Their letter complimented FWP and BCPF for implementing the project in the

most economical fashion using local involvement. They further urged cooperation with adjoining landowners in the replacement and maintenance of boundary fences.

**Response:** Comment noted.

**Comment 24-26:** Butte Skyline Sportsmen commented in support of the project and specifically that livestock grazing would be the most practical and cost effective way to implement the project. The group posed two questions regarding the project. The first concerned the ability of Poindexter to sustain a viable pheasant population over time. The second asked if the cattle producer would be paying any grazing fees to offset costs incurred for the projects.

**Response:** FWP considers 40 acres of habitat improvement to be the minimum project size to produce upland game birds. This project may eventually cover 150 acres of a 340 acre block of habitat and should provide the habitat components that will support a viable pheasant population over time. The project will not satisfy the widespread demand for pheasant hunting opportunity but will provide additional opportunity to pursue pheasants. FWP and Pheasants Forever received a charitable donation from Schuett Farms for all of the equipment and seed to implement the project. Under this arrangement livestock from Schuett Farms would be used as a practical tool to reduce the costs of project implementation and no fees would be collected. If this arrangement fails FWP and BCPF would seek another livestock producer to implement the project and fees or an exchange of services would be negotiated at that time.

**Comment 27:** A Dillon resident provided a verbal comment in support of the project and indicated the project should have been started 25 years ago.

**Response:** Comment noted.

**Comment 28-56:** A Dillon resident and an individual identified only by an email address submitted 29 identical comment points. The comments are considered individually below.

**Comment 28:** Three public access points to Poindexter FAS have signs stating “livestock grazing prohibited.”

**Response:** Livestock grazing is prohibited on FWP Fishing Access Sites without an environmental assessment that assesses the impacts to the human and physical environment. Livestock grazing has been employed on Poindexter FAS by the Parks Division (now Fisheries Bureau) as a weed management tool as recently as 2008 and the property has been subject to trespass livestock on an annual basis for many years. The proposed action would employ livestock as a management tool to achieve specific management objectives while protecting the integrity of the slough and adjacent vegetation. The overall project will provide the Fisheries Bureau the physical and financial means to address long standing issues related to trespass livestock.

**Comment 29:** The industrial, agricultural and now possible commercial aspects of the habitat improvements have caused a change in human use habits and use patterns on lower Poindexter.

**Response:** The Wildlife Bureau and BCPF recognize that Poindexter Slough is first and foremost a fishing access site. Both parties have worked diligently to meet any reasonable public or internal FWP demands. The recreating public has especially been very receptive and supportive of the project. The preferred alternative has several mitigation measures to reduce or eliminate conflict including the laying down or rolling up of the one-strand fence when not in use.

**Comment 30:** The costs savings to BCPF are irrelevant.

**Response:** The need identified in the EA to implement the project in as economically an efficient manner as possible was mandated by the FWP Wildlife Bureau. The Upland Game Bird Habitat Enhancement Program implements projects on a 75:25 ratio with cooperators and seeks value and economy wherever possible. FWP and BCPF opted to build 2 bridges through internal means in order to meet this mandate. Other activities like fence removal and general cleanup that FWP generally contracts for have been completed through volunteer effort only.

**Comment 31:** There is a conflict of interest between FWP biologist Craig Fager and his membership of BCPF.

**Response:** There is no conflict of interest and it is not unreasonable for a FWP biologist to be a member in an organization dedicated to habitat conservation.

**Comment 32:** The EA is vague on all subjects. It fails to mention the name of the agricultural producer, the number of cattle to be grazed, the specific acres to be grazed and/or hayed, exactly when and where fencing will be constructed and how much income will be generated.

**Response:** The agricultural producer is Schuett Farms. At this time we are anticipating using 60-100 head total in 4 separate pastures defined by the 50 acres currently seeded plus approximately 50 acres north of the Horseshoe Pond. FWP and BCPF would like to set some posts this fall but would not string any wire until it is needed in March or April of 2012. No grazing fees will be collected as the grazing would be considered an economical tool to accomplish a specific vegetation objective. Schuett Farms would also donate the equipment, time and seed for the nursery crops to FWP and BCPF. Haying is highly constrained by the bridge on the administrative access, low yields and great distances to recover any product. This practice was contemplated as a means to achieve access to the soil for the purposes of no-till planting. In the final analysis it is not a completely practical practice for this purpose and controlled livestock are much better suited to this role.

**Comment 33:** Repeated stream crossings by vehicles associated with the plan have caused significant erosion of the only ford.

**Response:** The Poindexter ford has served as the only vehicle access to the west side of Poindexter FAS since 1984, when a bridge washed out due to flooding. FWP acknowledges the ford approaches are eroding and have discussed repairing the approaches similar to repairs undertaken in about 1990. The FWP Wildlife Bureau and BCPF will contribute financially towards any such repairs. To minimize stream crossings FWP accessed three active reclamation

projects on foot for most of the last two months. Traffic through the ford was particularly heavy in the spring of 2011 due to a bridge replacement project on a tributary of Poindexter.

**Comment 34:** There are several widened and deeply rutted areas caused by traffic. A photo identified as Image 1 is in violation of ARM 12.8.709 b

**Response:** FWP acknowledges that several ruts were created by vehicles delivering materials for the bridge replacement in March of 2011. The ruts are now fully vegetated and we reasonably anticipate they will disappear in the next two years and the road will return to its customary width. Poindexter FAS is not considered a primitive fishing access site under ARM 12.8.709 b

**Comment 35:** The only route to access 53 project acres is through the Poindexter ford. Haying these acres would lead to additional erosion in the ford.

**Response:** FWP agrees that haying in the acreage accessed through the ford is not practical or desirable. The dense nesting cover west of the ford should be established on a majority of these acres in 2013 and will be a maximum of about 35 acres. One and two acre parcels adjacent to the interstate may be contemplated at a later date, with small equipment that FWP and BCPF are investigating. At least 15 acres west of the Poindexter ford that were identified for habitat conversion were subsequently rejected because they are too small or have a seasonally high water table.

**Comment 36:** The broad blanket of glyphosate (generic Roundup) and the possible fertilizers associated with farming along with non point sources of pollution from cattle could negatively alter the groundwater and be potentially significant over the period of this EA. The use of "Roundup Ready" barley and corn on Poindexter FAS should be discontinued immediately as these are corporate owned genes and these plants increase the volume of herbicides required.

**Response:** The use of glyphosate was fully disclosed and analyzed in the original project EA. Glyphosate is the most effective tool available to remove smooth brome, the primary target of the project. FWP and BCPF are not seeking to maximize crop yield and are using a minimal amount of fertilizer in the nursery crops of mixed corn and barley to allow for plant establishment. The nursery crops are intended to allow the rhizomatous root mass of the smooth brome to break down, and the nursery crop out competes weeds. FWP does not agree that livestock represent a non point source of pollution that is significant. Livestock would be fenced off Poindexter Slough and provide a valuable natural fertilizer as they recycle plant material to allow for effective seed contact with the soil. FWP mistakenly relayed to the commenter that the barley that comprises the majority of the existing nursery crop was Roundup Ready. Only the corn is Roundup Ready and the barley is not, therefore glyphosate is not an option for any weed control in the nursery crops. The corn will not produce viable seed in the short growing season in the Beaverhead Valley.

**Comment 37:** The risk of an equipment failure while crossing the slough should not be discounted.

**Response:** FWP agrees that great care should be taken in crossing the slough and that such trips should be minimized. FWP does not agree that the risks are potentially significant. FWP and BCPF are employing professional applicators with sound equipment. Haying is not a practical option on the west side as discussed in the response to comment 34.

**Comment 38:** The whole point of this plan is to be as potentially significant in the area as possible.

**Response:** The project would impact approximately 150 of 340 available acres if it is fully implemented. The project will take years to complete and any area treated under the proposed action (grazing or haying) would ideally be seeded and vegetated shortly after treatment. The original EA disclosed and analyzed leaving areas fallow for up to a year. FWP does not consider leaving anything fallow for a full year as ideal but may employ late summer or early fall treatments that would be seeded the following spring.

**Comment 39:** This plan is a wholesale alteration of the areas plant communities, reducing the populations of some species and introducing others, few native. Corporate owned and patented genes have been introduced into our land with Monsanto Roundup Ready barley.

**Response:** The nesting cover, food plots and shelter belt were fully disclosed and analyzed in the original EA. There are few native species beyond slender wheatgrass and certain shrub species that are suitable for the non-native dominated vegetation community on Poindexter FAS. The barley is not Roundup Ready and FWP regrets this miscommunication.

**Comment 40:** Cattle grazing and haying even during the non breeding season is bound to have both direct and indirect effects on non game species. Skunks will be controlled by blocking existing habitat found in culverts.

**Response:** FWP concurs that there could be minor impacts in the diversity or abundance of nongame species in areas that are grazed or hayed and will modify the EA accordingly. Skunks and raccoons are known nest predators that take advantage of man-made habitat like culverts. At least 11 culverts associated with the idled irrigation system hold skunk or raccoon dens. FWP reserves the right to mitigate this introduced habitat, as this is a common and effective management practice.

**Comment 41:** Trumpeter Swans are present on Poindexter Slough FAS. A Trumpeter was poached a few years ago on this property during the period of year proposed for grazing in this EA. Grazing and haying can have potentially significant effects on where swans choose to feed and roost. Poindexter is a rich source of aquatic plants well into the winter. An FWP press release detailing the poaching of a Trumpeter Swan on January 4, 2009 was attached.

**Response:** FWP is aware that Trumpeter Swans periodically utilize the Horseshoe Pond and Poindexter Slough, typically during the winter. The connection between the poached swan and this project is not clear. Any grazing would occur well after the waterfowl season, which ends on January 15 annually. FWP does not believe the project will have any impact on Trumpeter Swans. The Horseshoe Pond and Poindexter Slough are well buffered by vegetation and

elevation. FWP is not aware of any swans nesting or summering in the Beaverhead Valley. FWP agrees that Poindexter is a rich source of food for waterfowl.

**Comment 42:** The one wire electric fence may be a physical barrier to the elderly or physically disadvantaged. A horse rider or jogger at dusk may find a one wire fence a complete surprise. Some people have a fear of electric fences.

**Response:** FWP acknowledge that the fence will create a minor barrier and the EA recommends several mitigation measures to address this issue. FWP does not consider the presence of a fence for four to six week period a significant impact. All of the fence wire would be removed in high traffic areas when not in use and other sections would be laid on the ground to allow for the free movement of people, dogs and wildlife. Gates with insulated handles will be installed and marked at all customary access points.

**Comment 43:** If a spill happened during a stream crossing, the results could be catastrophic. Monsanto owned and patented Roundup Ready genes have been released in Poindexter Slough FAS and the liability and risks are uncertain. The use of additional herbicide/Roundup is all but certain and is outside of the scope of the Statewide Integrated Noxious Weed Management Plan.

**Response:** See the response to comment 37. Glyphosate will not be employed to control weeds in the nursery crops and the barley is not Roundup Ready. FWP is legally mandated to control weeds and must do so under the Statewide Integrated Noxious Weed Management Plan.

**Comment 44:** People riding horses, jogging at dusk or pets could be injured by fences in places they have never been before. The blanket application of herbicides made without any advance postings or signage in a high use area could adversely affect the health of people and their pets.

**Response:** See the response to comment 42. FWP will post high use areas in advance of herbicide applications.

**Comment 45:** Placing cattle where they have been unwelcome for the past 30+ years is sure to anger some people and alter existing use patterns. It already has to some extent.

**Response:** FWP recognizes that livestock grazing is controversial to some but also believes livestock are an important tool for vegetation management. The proposed action provides clear mitigation and ultimately the removal of any fences constructed during the project. The project also provides support and financial resources for the Fisheries Bureau to replace boundary fence and provide for safe public passage to the Beaverhead River by removing old fences and passage gates for the public.

**Comment 46:** Signage will need to be changed at three public access points where “Livestock Grazing Prohibited” is proclaimed.

**Response:** The signs at the access points to Poindexter are the responsibility of the Fisheries Bureau. FWP ARM 12.8.203 (4) precludes livestock grazing outside of an approved lease, license or other written agreement with the department.



**Comment 47:** There is a failure to mention any revenue that may be generated by grazing or haying. Certainly you do not expect the citizens of the state to “donate” our forage to ranchers? I would assume a very high AUM could be charged for this lush land.

**Response:** The EA addresses compensation for grazing and haying in section 10e. Under the charitable donation FWP and BCPF received from Schuett Farms the livestock grazing or hay crop would be used to offset the producer costs under the charitable donation. FWP and BCPF would seek another producer to implement the project if this arrangement fails. Grazing would remain the preferred method to manage standing biomass, and any costs and benefits would have to be worked out under the current NRCS cost schedule and in the context of all activities and inputs like seed and ground preparation.

**Comment 48:** Cattle grazing degrade the fishing experience. Visible evidence of haying will be present for months until overtaken by new growth and will be an unexpected and unwelcome intrusion into this, until recently, fallow public property.

**Response:** Livestock will be fenced off Poindexter Slough to protect riparian vegetation and minimize impacts to the recreating public. Further, fence wire will be rolled up or laid flat to mitigate any potential conflict with the recreating public, pets and wildlife. Haying is a highly constrained option within the preferred alternative as discussed in the response to comment 32.

**Comment 49:** I have detailed considerable possible singular and cumulative impacts. A “substantial management change” (EA Page 15) of this sort should never occur without an EIS and updated management plan for this property. Please don’t let the cows sneak in the backdoor!

**Response:** The EA continues in the section cited on page 15 that all of the management practices contemplated in this EA (grazing, haying, burning and mowing) have all been employed by FWP on Poindexter, primarily to manage weeds. The project also provides financial resources and management assistance to the FWP Fisheries Bureau to address long term problems with boundary fences, access and vegetation management.

**Comment 50:** Spills during a stream crossing or on land cannot be ruled out with the volume of traffic currently utilizing the property. More equipment crossings equals more risk. The state’s liability to Monsanto is unknown.

**Response:** See the response to comment 36.

**Comment 51:** The continuing blanket use of glyphosate is outside the scope of Statewide Integrated Noxious Weed Management Plan (2008), and the use of a herbicide combined with a corporate bred GMO herbicide resistant plant is well wide of the plan’s intent.

**Response:** See the response to comment 36.

**Comment 52:** Once cattle are allowed to graze Poindexter the precedent is set and it may be nearly impossible to revert back. Neighboring ranchers have been itching to get their cows on

this land for decades. The proper way to handle a “substantial management change” such as this is through a full EIS and updated management plan.

**Response:** The proposed action provides comprehensive mitigation for fences that would be used to control livestock as well as a commitment to remove fences altogether at the conclusion of the project. Livestock grazing is proposed as a tool to economically obtain a wildlife habitat objective. The project will also improve the Fisheries Bureau’s ability to replace boundary fences that have repeatedly failed and allowed livestock to trespass on an annual basis.

**Comment 53:** People of all walks and from around the globe treasure this little piece of paradise, and I would be saddened if a proposal like this did not generate substantial debate and controversy. It should be noted that controlled livestock grazing was never authorized in the spring of 2011 and it should surprise no one that no public comments were received regarding the burning operation as no comments were sought.

**Response:** Ten individuals and 5 organizations commented on the EA. Ten comment letters were generally supportive of the project and five, including one duplicate comment letter, were generally in opposition. FWP is immersed in the Dillon community and is well aware of local support, opposition and skepticism to this project. FWP cannot question the motives or reasoning of individuals who choose to not voice their opinion to a specific EA. FWP did misstep with grazing in the spring of 2011 and took immediate action to correct the situation and move the project forward. FWP has applied prescribed fire on Poindexter FAS in the past and reserves the right to apply it again as a useful land management tool.

**Comment 54:** Neither alternative A nor B describes haying or grazing as an option. Alternative A, prescribed burning, as a natural process is the best way to reduce biomass. It should be noted that an EA has not been performed for controlled burning on this property and should be if this alternative is to be pursued.

**Response:** Alternatives A and B provide different management options to the proposed action. Both alternatives are viable options but have issues related to safety, manpower intensity and cost that make them less desirable than the preferred alternative. Both alternatives are summarized on page 1. FWP has previously employed burning as a tool on Poindexter FAS and reserves the right to apply prescribed fire as a useful land management tool.

**Comment 55:** Several of the significant and potentially significant impacts presented in detail necessitate a full EIS in my opinion. Cumulatively they demand one. Singly, the introduction of corporate owned genes into state lands should necessitate a full EIS and many legal opinions. Somehow the use of herbicides transformed from “may be employed” (original EA page 7) to a “roundup ready” theme of this plan without any comment or EIS.

**Response:** FWP does not agree that the proposed grazing or haying necessitate an EIS. These practices have been employed on Poindexter FAS historically and provide predictable means to achieve a wildlife habitat objective. The barley nursery crop is not Roundup ready. FWP is legally mandated to control noxious weeds in accordance with state law and FWP policy.

**Comment 56:** The “substantial farming” (original EA page 4) and “the substantial change in the management of Poindexter FAS” (original EA page 8) and additional “substantial management changes” (this EA page 15) that these EA’s propose(d), themselves, should require a comprehensive updated management plan for the property as well as a full environmental impact statement to ensure the public’s interests are best protected. Certainly, I do not like, approve of, nor appreciate the direction in which this land is heading and I doubt I am the only one that feels this way. To proceed with this plan would be a violation of public trust.

**Response:** The upland game bird habitat enhancements represent a change to the management of Poindexter FAS that was fully disclosed and analyzed in the original EA. The project identified opportunities to coordinate management internally within the department as well as employ the resources of dedicated volunteers from BCPF to manage the property. The proposed grazing and haying again provide a predictable means to achieve a wildlife management objective. The heartfelt opposition to the project is noted.

**Comment 57-63:** A Dillon resident submitted 7 comments to the project. The comments are considered individually below.

**Comment 57:** A comment was made in opposition to the introduction of non-native species.

**Response:** Comment noted.

**Comment 58:** A concern was raised over safety conflicts between hunters, dogs and anglers.

**Response:** Poindexter FAS is a popular recreation destination for a variety of uses including general recreation, hunting and fishing. A weapons restriction regulation (archery, muzzleloader, shotgun or traditional handgun) applies to the FAS and the system has worked well. FWP is not contemplating any additional regulations for the site and ultimately leaves it to the recreational user to disperse their use and look out for other people and pets.

**Comment 59:** A concern was raised over recreational experience conflicts between hunters, dogs and anglers. The comment points out that all recreationists using lower Poindexter FAS have to pass under the Interstate 15 underpass to access the site. Anglers cannot cast in the popular fishing hole while monitoring approaching foot traffic.

**Response:** See the response to comment 58.

**Comment 60:** Last August I called the Dillon Field Office to report OHV tracks all over the slough area and was told a tractor was working there spraying weeds to prepare the area for a pheasant project. How was that activity justified before an EA was prepared?

**Response:** The tracks were the product of either the Beaverhead Community Spray Day or a contractor hired by Beaverhead County on behalf of the FWP Parks Division. FWP Wildlife Bureau employees and BCPF volunteers participated in the community spray day to support efforts to control houndstongue, thistle and other weeds that are a serious management concern

on Poindexter FAS. The original project EA was completed in August 2010 and it discloses and analyzes the use of herbicide.

**Comment 61:** Pheasants have been present in good huntable numbers in the Ruby Valley for at least 30 years. If pheasants could live here in Beaverhead Co. they would have found their way over here.

**Response:** FWP and BCPF are seeking to create the requisite habitat components-nesting cover, food and winter cover-to allow for some local pheasant production. The project will benefit a variety of wildlife, including pheasants, but cannot satisfy the insatiable public demand for pheasant hunting opportunity.

**Comment 62:** Should coyotes, foxes or raccoons cause pheasant mortality I don't want any punitive act initiated.

**Response:** Skunks and raccoons are known nest predators that take advantage of man-made habitat like culverts. At least 11 culverts associated with the idled irrigation system hold skunk or raccoon dens. FWP reserves the right to mitigate this introduced habitat as a common management practice. FWP has no plans to actively control any predators although they may be hunted by the public at any time.

**Comment 63:** Put and take hunting has no place in Montana.

**Response:** Comment noted.

**Comment 64-68:** A citizen provided 5 comments to the project. The comments are considered individually below.

**Comment 64:** I don't think it is appropriate for the Dept to be partnering with the Beaverhead Chapter of Pheasants Forever, or expending resources to improve habitat for pheasants. Pheasants are an introduced species. This is a relevant point for at least two reasons.

**Response:** Comment noted.

**Comment 65:** First, Section 5, Part d of the EA asks if the proposed action will result in the introduction of a new species into the area. Technically, pheasants may not be introduced by this project, but the project supports and prolongs their presence. If it is not the letter of the law that is being violated, then the spirit of the law is being violated. The question in Part d should be expanded to ask how introduced species are impacted, with the preferred alternative of removing them. There is precedent for this type of action in this EA. In Section 4, comment 4a discusses removing smooth brome, an introduced grass.

**Response:** Pheasants occur in low numbers on Poindexter FAS and the project does not introduce a new wildlife species. Smooth brome is targeted for removal because of its poor wildlife cover qualities. The original project EA fully disclosed and analyzed the removal of smooth brome and the recommendations made by USDA NRCS.

**Comment 66:** Second, Section 13, Part d, I believe the claim of no impact is incorrect. The project will increase the likelihood that future actions with significant environmental impacts will be proposed. It continues a trend of approving projects that benefit introduced species. The Potentially Significant box should have been checked instead.

**Response:** FWP does not believe that the proposed action represents a potentially significant impact. The proposed grazing and haying are proposed as tools to implement dense nesting and food plots for the benefit of all wildlife. The EA clearly spells out mitigation for livestock fences and other practices associated with the project.

**Comment 67:** I believe Part c of Section 13 could also be an incorrect response. I'm sure there are regulations at some level of government about management of non-native species. This EA could potentially be in conflict with them because it supports a non-native species.

**Response:** There are no government regulations that we're aware of that limit FWP's ability to manage non-native species.

**Comment 68:** I hope the Dept will reevaluate this project and its stance on introduced species. FWP should be one of the state's leading advocates in supporting native species and eradicating non-native species.

**Response:** Comment noted

**Comments 69-77:** Western Watersheds Project provided nine comments. The comments are considered individually below.

**Comment 69:** Overall, the EA provides a cursory, predetermined analysis of manager's desire to introduce livestock grazing into the management area.

**Response:** FWP does not agree. The EA provides significant analysis, mitigation of grazing impacts to the slough and associated riparian vegetation, and mitigation of any risks to the public, pets and wildlife.

**Comment 70:** Livestock grazing is not an appropriate management tool in the Poindexter Slough Fishing Access Site.

**Response:** Comment noted.

**Comment 71:** The EA fails to adequately analyze the impact that livestock grazing will have to stream-bank stability, cover, potential sediment deposition, and recreational values. The EA fails to adequately analyze the impacts to all of these values, and other values, of its alternatives, falling short of its obligation to consider alternatives to its proposed alternative. Will a controlled burn better protect aesthetic values considered? Will controlled burn better provide for bank stability? Water quality? Recreation? Any of the other considerations provided for in its RTII. Environmental Review? The public does not know because the review only considers

the proposed alternative. It is not enough to list additional alternatives at the end of the document and provide a cursory paragraph summary of what the alternative entails; the EA must run each alternative through the RT II. Environmental checklist and include meaningful analysis such that the public and decision-maker are afforded a meaningful understanding and consideration of cost/benefit and impact analysis.

**Response:** The EA considers two management practices, grazing and haying, as preferred alternative tools to implement habitat enhancements disclosed and analyzed in a prior EA. The EA thoroughly analyzes the impacts and practical application of these practices and provides extensive mitigation to reasonably anticipated impacts. Burning and mowing were not pursued as preferred management options for reasons that are clearly stated in the EA.

**Comment 72:** Construction of fencing has been shown to have negative impact to upland bird populations including Greater Sage grouse because of the tendency of upland birds to collide with fencing and the opportunity for predator birds to take advantage of increased roosting and associated predation. The construction of fencing near this water-source is particularly troubling given its proximity to water that upland birds rely on.

**Response:** FWP recognizes that fencing provides opportunity for collision mortality and predation opportunity. There are no Greater Sage Grouse associated with Poindexter FAS. FWP and BCPF have removed abandoned interior fences throughout Poindexter FAS to facilitate recreational and wildlife movement. FWP and BCPF will mitigate potential bird strikes by removing or laying down the wire on an annual basis and removing the wire and posts altogether at the end of an anticipated two to four-year period.

**Comment 73:** The MEPA analysis fails to adequately analyze the potential contamination of associated water with E. coli, Giardiasis (Giardia) and other water contaminants deriving from livestock waste (3h).

**Response:** FWP believes E. coli and Giardia are already present in the environment of Poindexter and these agents pose no elevated risk of contaminating water. Poindexter Slough is surrounded by private agricultural land where livestock have unfettered access to water.

**Comment 74:** In the analysis of 'Vegetation', the EA claims livestock grazing will be responsible for removal of the smooth brome community while additionally claiming that: "The brome would be killed with a glyphosate treatment followed by treatment with a no till drill that would plant a nursery crop of barley or corn" (EA 4a)

**Response:** The EA states in section 4a that livestock would "reduce the standing crop of smooth brome". This statement refers only to the above ground portion of the plant and in no way will remove or kill the smooth brome. It is this fundamental oversight that necessitated the second EA for this project. Grazing would allow a clean plant to regrow to establish leaf area before it is treated with glyphosate. No till drills allow for precise seed placement in moderate stubble but lose effectiveness if they have to push through too much foliage.

**Comment 75:** The EA fails to include analysis of livestock's tendency to selectively graze, and it fails to establish whether livestock may be predisposed to reduce target species (including smooth brome), or opt to opportunistically select non-target desirable species both currently occurring in the "treatment" area as well as introduced to as a part of the treatment. Will the cows do more damage to desirable plant species than undesirable species? In Western Watersheds Project's experience, smooth brome is often an "increaser" species that frequently opportunistically responds to grazing pressure-it increases, not decreases to grazing pressure as the analysis assumes.

**Response:** FWP recognizes that livestock will selectively graze and will mitigate the issue by making concise pasture that provide few options for grazing anything beyond targeted species. Protecting riparian vegetation and streambanks, existing stands of basin wildrye and wetlands is a project priority. Each of the three blocks that were treated in 2011 had some wetter areas that were comprised of foxtail brome, a ubiquitous introduced grass species that favors wetter soils. These areas were carefully avoided during the glyphosate application and will provide the majority of alternate available forage. FWP does not believe they will be selected above smooth brome or available nursery crops. Smooth brome is a horribly persistent grass species and FWP is under no illusions, per the response to Comment 75 above, that grazing pressure will remove it in or reduce it in any way. Again the grazing treatment provides the access for a clean glyphosate kill and effective application of no-till technology.

**Comment 76:** Is the glyphosate treatment adequate to remove the smooth brome alone-without necessitating additional impacts associated with grazing? Will reduction in smooth brome above-ground biomass reduce leaf surface area necessary for the effective application of glyphosate? Will grazing impact throw smooth brome into dormancy reducing the relative effectiveness of glyphosate treatment? Glyphosate is less effective when [the] target plant is in a dormant state and it is less effective with a reduced surface area decreasing the rate of application.

**Response:** A glyphosate treatment without reducing the standing biomass would create a cascade of weed issues because the ground would likely have to remain fallow for a year or more while the biomass biodegraded. The target kill would also be less than desirable if leaf area is protected by litter. This practice would necessitate additional herbicide treatment which we are striving to avoid. Smooth brome has to be allowed to rest post-grazing, to establish adequate leaf surface area before it is treated. Reasonable grazing pressure will stimulate smooth brome by providing access to sunlight. Relatively clean stands of smooth brome greened up a full two weeks prior to litter dominated stands on Poindexter FAS in the spring of 2011.

## **Final Environmental Assessment**

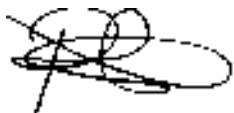
Public comments that were generally supportive of the proposed action also recognized some real management challenges (fences, weed management, signs) to Poindexter FAS and limitations of the haying option within the preferred alternative. Public comments in opposition to the project provided a broader spectrum of issues related to the project as a whole including philosophical opposition to grazing, non-native species, herbicides and the general management of Poindexter FAS. The EA provides clear mitigation of the proposed fences to address

reasonable concerns of the recreating public and wildlife. The upland vegetation community on Poindexter FAS is dominated by non-native species and no amount of analysis or funding will restore a native vegetation community on this site. FWP is not insensitive to this issue or concerns related to herbicides. The 2010 EA and decision notice currently being implemented stated that the Wildlife Bureau and BCPF cannot address all of the management issues on the site, and that point is reiterated in this decision notice. The upland game bird habitat enhancements provide an important opportunity for the Fisheries Bureau to address long standing management issues in a cooperative fashion. The Poindexter ford is a management issue for FWP and all parties responsible for the management of the site. The ford has served the department since 1984 and needs to be addressed cooperatively. Alternative A (Prescribed burning) was supported by one comment as the preferred alternative. This alternative is constrained by equipment, expertise, manpower, and safety concerns that reserve it for special circumstances within the project. One modification is necessary to the Draft Environmental Assessment. The proposed grazing and/or haying plus the skunk and raccoon habitat abatement at culverts will result in a minor impact to the diversity and abundance of non game species. The Draft Environmental Assessment, together with this Decision Notice, will serve as the final document for this proposal.

## **Decision**

Based on the Environmental Assessment, public comment and the fish and wildlife management objectives for Poindexter FAS, it is my conclusion that the proposed grazing and haying have no significant impacts on the physical and human environments. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required.

This decision notice along with the original EA will be posted on the FWP website [www.fwp.mt.gov](http://www.fwp.mt.gov)



Patrick J. Flowers  
Regional Supervisor

9/19/2011

Date